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COUNTER CORRUPTION ACT

MANDATORY REPRESENTATIVE CERTIFICATION OF ANTI-BRIBERY & ANTI-CORRUPTION COMPLIANCE

PURPOSE OF THE CCA: ALL REPRESENTATIVES OF THE LABELS 'GLOBAL.AG Security&Communication', 'GLOBAL.AG Heavy Industries' AND 'GLOBAL.AG Strategically Decisive Solutions', FURTHER SIMPLY REFERRED TO AS 'GLOBAL.AG' ARE REQUIRED TO FULLY READ AND UNDERSTAND THIS CERTIFICATION PRIOR TO TAKING ANY ACTION ON BEHALF OF GLOBAL.AG. BY SIGNING YOUR INITIALS AT THE BOTTOM OF EACH PAGE OF THIS CERTIFICATION AND SIGNING THE CERTIFICATION PAGE, YOU AGREE AND ACKNOWLEDGE THAT YOU HAVE FULLY READ AND UNDERSTAND THIS CERTIFICATION AND THAT YOU WILL NOT ENGAGE IN CONDUCT THAT VIOLATES GLOBAL.AG POLICY OR THE LAWS OF ANY STATE, NATION OR JURISDICTION WHERE YOU CONDUCT BUSINESS ON BEHALF OF GLOBAL.AG.

GLOBAL.AG POLICY

It is the policy of **GLOBAL.AG** that each director, officer, employee, agent or representative, comply in all respects with all applicable domestic and international laws, standards and principles relating to anti-corruption and anti-bribery in each of the jurisdictions in which **GLOBAL.AG** operates or conducts any other activity. **GLOBAL.AG** has established and shall enforce effective compliance procedures. Any breach or breaches of those procedures will be treated as serious disciplinary offences. No form of bribery, including improper offers or payments to or from employees or agents, will be tolerated.

Contacts by or on behalf of **GLOBAL.AG** with governments, government agencies or officials will be conducted in compliance with **GLOBAL.AG's** Uniform Anti-Corruption and Anti-Bribery Compliance Procedures & Guidelines and in a manner sufficient to ensure compliance with applicable anti-corruption and anti-bribery laws. Any consultants, advisors or other agents retained to assist or represent **GLOBAL.AG** with respect to governments, government agencies or officials will be informed of this policy and are

required to comply with its terms. Such agents will be retained only in accordance with the Uniform Anti-Corruption and Anti-Bribery Compliance Procedures and Guidelines. The responsibility for ensuring that **GLOBAL.AG** complies with anti-corruption law rests with each and every **GLOBAL.AG** personnel, and it is subject to oversight from the Compliance Officer and the Compliance Oversight Review Committee.

GLOBAL.AG requires all books, records and accounts to be kept in reasonable detail such that they accurately and fairly reflect its domestic and foreign transactions. **GLOBAL.AG** also requires anti-corruption and anti-bribery compliance training for all personnel whose job responsibilities involve foreign transactions.

BACKGROUND OF ANTI-CORRUPTION LAWS

The U.S. enacted the FCPA in 1977. Twenty years later, the Organization for Economic Cooperation and Development (“OECD”) adopted the Convention on Combating Bribery of Foreign Officials in International Business Transactions concluding that bribery in international business transactions raises serious moral and political concerns, undermines good governance and economic development and distorts international competitive conditions. All OECD members have enacted legislation which criminalizes the bribery of foreign officials. Similar conventions have been adopted by other international bodies, including the United Nations Convention Against Corruption and the African Union’s Convention on Preventing and Combating Corruption. African Union members include Angola, Equatorial Guinea, Gabon and Libya.

The FCPA is not the only transnational anti-corruption statute. Since 1996, more than 100 countries have signed one or more of a series of multilateral conventions under the auspices of the OECD, the Organization of American States (OAS), and the Council of Europe (COE) and, more recently, the United Nations and the African Union. Those conventions require signatory countries to criminalize a wide range of offenses, including bribery, diversion of property by public officials, trading in influence, illicit enrichment, money laundering, and concealment of property. They also seek to establish accounting standards for private companies, to provide for recovery of stolen assets, and to eliminate the tax deductibility of bribes. They also establish and require mutual legal assistance, including extradition, among signatory countries in the investigation and prosecution of corruption offenses, which has led to numerous case referrals and has greatly facilitated the prosecution of corruption cases in many jurisdictions. Implementation and adherence to the conventions by countries are encouraged through monitoring by intergovernmental task forces established for this purpose. As a result, in addition to pre-existing domestic bribery laws, dozens of countries throughout the world now have laws similar to the FCPA criminalizing transnational official bribery. Those transnational standards are equalizing the terms of competition among competitors from countries with historically different legal standards and business traditions. **GLOBAL.AG** expects its employees to be familiar with and to comply with all state and national laws, including the FCPA, and with **GLOBAL.AG** policies and guidelines.

LAWS AGAINST CORRUPTION AND BRIBERY

Though there is a substantial push for each of the respective jurisdictions to comply with the OECD convention, global anti-corruption and anti-bribery laws are not yet uniform. For example, though China is reportedly increasing anti-corruption and anti-bribery enforcement, its laws remain a patchwork of various laws. In recent years, several prominent European countries have amended their own patchwork of criminal laws and more directly targeted corrupt conduct.

Two of the most prominent anti-corruption and anti-bribery laws are the FCPA and United Kingdom Bribery Act (the "UK Bribery Act"). The UK Bribery Act is largely perceived as adopting the OECD convention, with some important differences. It is also viewed as a more rigid version of the FCPA. To understand what is prohibited globally on a general level, you should understand the contours of the FCPA and UK Bribery Act.

In addition, Austrian bribery offenses are listed at Section 307 of the Austrian Penal Code. Originally, Austrian law criminalized bribery of domestic officials only, but the laws were amended in 1998 to apply to foreign officials as well as domestic. Bribery is defined in that section as someone (a person or corporation) offering, promising, or giving an advantage to a second party in exchange for the second party's action or inaction regarding an official or legal act in violation of its duties. Under the statute, an official act is undertaken by a public official, while a legal act applies to senior executives of a public enterprise.

In its broadest terms, the FCPA criminalizes corrupt payments intended to obtain or retain business. A payment is "anything of value" and sets certain record keeping requirements for publicly traded companies. In the UK Bribery Act, four categories are criminalized: (1) offering, promising or giving a bribe to another person; (2) requesting, agreeing to receive or accepting a bribe from another person; (3) bribing a foreign public official; and (4) a corporate offense of failing to prevent bribery.

The term "anything of value" is not defined in the FCPA. It is broadly construed to include not only cash or a cash equivalent, but also, discounts (e.g., a discount of the price of goods or services); gifts; use of materials; facilities or equipment; entertainment; drinks; meals; transportation; lodging; insurance benefits; and promise of future employment. A prohibited payment need not be a large payment, but can be any amount, including those under \$100.

Recent FCPA enforcement activities have focused on the following alleged payments and gifts to foreign officials:

Discounts on goods;

- Valuable gifts (e.g., cars, property, jewelry);
- Use of equipment or facilities;
- Vacation transportation or lodging;
- School tuition;
- Promises of employment;
- Medical care or health care; and
- Insurance benefits.

The government must prove that the payor of the bribe had a "corrupt" intent. "Corrupt intent" is not defined in the statute. However, the term is accepted to mean possessing an "improper motive or purpose" where the payment was "intended to induce the recipient to misuse his official position in discharging an official act." *United States v. Kozeny*, 582 F. Supp. 2d 535, 540-541 (S.D.N.Y. 2008). The government is not required to establish that the foreign official accepted the bribe or that the foreign official had the power to perform the act sought by the payment. *Id.*

Under the UK Bribery Act, there is no element of “corrupt” intent. Instead, so long as the accused induced or made an improper payment, they may be liable under the UK Bribery Act. The “anything of value” standard is applicable to the UK Bribery Act, though the UK Bribery Act does not explicitly identify a minimum value for a bribe.

Under the FCPA, Persons who “turn their back” on bribery or put their “head in the sand” can also be punished under the concept of “willful blindness.” Willful blindness is more than “negligence” or “foolishness,” it is evidence of a “conscious disregard or deliberate ignorance of known circumstances that should reasonably alert one to the high probability of violations of the [FCPA].” In other words, a person can be punished under the FCPA for ignoring signs that bribes were being paid.

The FCPA says that a foreign official is:

...any officer or employee of a foreign government or any department, agency or instrumentality thereof [. . .] or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality ...

This term is broadly construed in a manner similar to the UK Bribery Act to include government officials, employees and agents, as well as employees of state controlled entities. A state controlled entity could encompass companies or individuals acting pursuant to foreign government contracts or receive funding from a foreign government. Foreign officials for the purpose of this statute can also be less obvious individuals, such as government advisors or employees, and members of the military.

The term also includes foreign political parties, foreign political party officials and candidates for foreign political offices. International organizations such as the United Nations, World Bank, World Trade Organization or International Monetary Fund, are considered foreign officials under the FCPA and the UK Bribery Act.

Under the FCPA, there are three narrow categories of payments to or for the benefit of foreign officials that are permissible and prior consultation should be made with the Compliance Officer or legal counsel to determine if a proposed payment falls into one of the three categories:

- 1) Authorized by law - payments that are lawful under the written laws and regulations of the relevant country. **Bribery is illegal in all countries in which GLOBAL.AG does business.**
- 2) Reasonable and bona fide expenses - payments that constitute a reasonable and bona fide expense incurred for or on behalf of a foreign official directly related to the promotion, demonstration, or explanation of products or services or the execution or performance of a contract with a foreign government or agency; and
- 3) Facilitating payments - small payments made to low level government officials to secure a *routine governmental action*. Generally, the payment of any facilitating payment should be avoided even if it causes inconvenience. Determining whether the payment is in fact a “facilitating payment” depends upon the particular circumstances. To be classified as a “facilitating payment” the payment must be for *routine governmental action* such as obtaining permits, licenses, visas or other official

documents or to receive services such as mail delivery, utilities, cargo handling, security or police protection. The payment must also be “customary” in the country where the payment is to be made, paid to a low level government employee, and not a violation of local law. Payments are made to accelerate performance of a nondiscretionary act that an official is already obligated to perform – not to influence a decision by a foreign official to award new business or continue business with a particular person or entity. A payment made to entice a government official to violate the law is similarly not a facilitating payment.

Neither the OECD convention nor the UK Bribery Act contains an exception for facilitating payments. In view of the fact that the OECD convention does not permit facilitating payments, you should expect that the majority of jurisdictions will not make an exception for facilitating payments.

WHAT IS BRIBERY?

A bribe is any payment, promise to pay or authorization of payment of any money, gift or anything of value to any foreign official for the purposes of –

- (a) influencing any act or decision of the foreign official;
- (b) inducing him or her to do any act in violation of his or her lawful duties;
- (c) securing an improper advantage (or to act improperly in general (See UK Bribery Law); or
- (d) inducing him or her to use his or her influence with a foreign government.

These actions must be taken *in order to assist in obtaining or retaining business* under the FCPA. The U.S. defines “obtaining or retaining business” broadly to include, but not limited to, business advantages such as obtaining a permit or a tax break.

The following is a list of essential concepts regarding bribery:

- (1) Companies may be held liable for violating anti-bribery provisions by domestic as well as international jurisdictions. Thus, a U.S. company can be liable for the conduct of its overseas employees or agents, even if no money was transferred from the U.S. and no U.S. person participated in any way in the foreign bribery.
- (2) “Giving, offering or promising” includes direct and indirect payments, gifts, offers, or promises. Even if the improper payment is not consummated, just offering it violates bribery laws. Likewise, instructing, authorizing, or allowing a third party to make a prohibited payment on **GLOBAL.AG**’s behalf, ratifying a payment after the fact, or making a payment to a third party known or having reason to know that it will likely be given to a government official constitute violations.

- (3) A bribe can be “anything of value.” It can include not only cash and cash equivalents, but also gifts, entertainment, travel expenses, accommodations, and anything else of tangible or intangible value.
- (4) “To obtain business or any advantage” or “improper performance” includes, for example, a reduction in taxes, a favorable change in regulations, tolerance of non-compliance with local rules, or other favors or preferential treatment. The business to be obtained or retained does not need to be with a foreign government instrumentality. NOTE: Facilitating payments under the UK Bribery Act may be considered to induce “improper performance,” creating liability.

You should be aware that the OECD Convention requires signatory countries to prohibit the offering, promising or giving of any undue pecuniary or other advantage to a foreign public official, in order that the official act or refrain from acting in relation to the performance of official duties, or in order to obtain or retain business or other improper advantage in the conduct of international business. Following the contours of the FCPA and the UK Bribery Act are good guideposts, though they cannot be a substitution for knowing and following the laws of the local states, nations or jurisdictions where you are doing business on behalf of **GLOBAL.AG**.

WHO IS SUBJECT TO ANTI-BRIBERY AND ANTI-CORRUPTION LAWS?

Everyone. Every state, nation or jurisdiction where **GLOBAL.AG** conducts business has laws or customs policing bribery and corruption. Some of the laws – such as the FCPA – can reach outside of the jurisdiction’s borders, capturing international conduct. Even though anti-bribery and anti-corruption laws can vary from jurisdiction to jurisdiction, there is no excuse, or exception, for violating the law. **GLOBAL.AG** requires everyone to know the laws of the jurisdiction or jurisdictions where they do business on behalf of **GLOBAL.AG**.

The FCPA applies to “issuers” and “domestic concerns.” “Issuers” are companies that have a class of securities registered or who are required to file reports under the Securities Exchange Act. A “domestic concern” is any individual who is a citizen, national or resident of the United States, or any business entity that has its principal place of business in the U.S. or is organized under the laws of a state of the U.S. The FCPA also applies to any officer, director, employee, or agent of an issuer or domestic concern or any stockholder acting on its behalf. Although technically the FCPA does not apply to a foreign subsidiary of an issuer or domestic concern, the U.S. enforcement authorities are very aggressive in attributing the acts of a foreign subsidiary to its U.S. parent. Moreover, an issuer that owns more than 50% of a foreign affiliate must assure compliance by the affiliate with the accounting requirements of the FCPA.

Under the Austrian Penal Code, Section 307, Paragraph 1 contains the following non-exhaustive list of parties that fall under the statute: 1) a public official; 2) senior executive of a public enterprise; 3) expert witness for delivering false testimony/opinions; 4) a staff member of a senior executive of a public enterprise; 5) an expert adviser paid for giving the bribe; or 6) a foreign public official for the exercise or the refraining from the exercise of an official act in violation of his/her duties in order to obtain or retain business or any other improper advantage in the conduct of international business.

Paragraph 2 of Section 307 applies to whoever offers, promises or gives not merely a petty advantage.

Paragraph 2 names two specific parties that it applies to: 1) a public official for the exercise or the refraining from the exercise of an official act in conformity with his/her duties and 2) a senior executive of a public enterprise for the exercise or the refraining from the exercise of a legal act in conformity with his/her duties. The maximum penalty for a Paragraph 2 offense is six months in prison or a fine of 360 rates, unless it is objectively decided that the perpetrator cannot be blamed for having offered, promised, or given the advantage in question.

PENALTIES

A failure to comply with anti-corruption laws could seriously harm a company. Under the FCPA, the penalty is up to \$2,000,000 for each violation. Under the Federal Sentencing Guidelines, a company can be fined up to three times any gain resulting from or damage caused by the violations. Much more serious, however, is the damage to a company's reputation; its reputation with domestic and foreign governments, joint venture partners, investors, contractors, lenders and present and potential employees. A company's good reputation is easily destroyed, and very difficult to restore.

For an individual, non-compliance can be devastating. The penalty for violating the FCPA is five years in jail and a fine of \$100,000. Under the UK Bribery Act, defendants face a maximum of 10 years imprisonment for each violation. Furthermore, a violation is a felony. Felons in the U.S. cannot vote, cannot or will have difficulty holding a professional license, and will have difficulty finding employment, any employment. In addition, non-U.S. citizens may be subject to deportation from the United States and may be barred from future entry into the United States. Even if the government does not bring an enforcement action against an individual, the outcome can still be devastating. Under Austrian law, bribery laws can be punished by up to two years imprisonment for each offense.

In addition to civil and criminal penalties, a person or company found in violation of the FCPA may be precluded from doing business with the U.S. government through suspension or debarment. Other penalties include denial of export licenses and debarment from programs under the Commodity Futures Trading Commission and the Overseas Private Investment Corporation. Any alleged or actual violation of the laws discussed in this summary could be grounds for this exclusion, debarment, or suspension. Note also that Article 45 of the Public Procurement Directive of the European Union (2004/18/EC) provides for mandatory debarment of "any candidate or tenderer" may be barred from government contracting "who has been the subject of conviction by final judgment" for "any of the following crimes...: (1) participation in a criminal organization, (2) corruption, (3) fraud, or (4) money laundering."

The implications of exclusion, debarment, or suspension are extensive. If a company is excluded, debarred, or suspended from doing business with the federal government, it cannot provide any of its products to any other federal government agencies. For the same reason that the federal government excludes certain individuals and corporations, states have established their own rules covering exclusion, debarment, or suspension. **GLOBAL.AG** policy requires employees to notify a manager if the employee becomes excluded, debarred, suspended, or convicted of a crime.

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CERTIFICATION

ACKNOWLEDGMENT OF RECEIPT, REVIEW AND UNDERSTANDING OF THE FORGOING ANTI-BRIBERY AND ANTI-CORRUPTION DOCUMENT

I, _____ on behalf of _____ (optional), a company organized under the laws of _____, have agreed to act as a representative of **GLOBAL.AG** pursuant to **GLOBAL.AG's** anti-bribery and anti-corruption procedures and guidelines, confirm that I have received, read, understand, and will strictly follow **GLOBAL.AG's** Policy with respect to anti-corruption and anti-bribery compliance as well as the laws of any state, nation or jurisdiction where I conduct business on behalf of **GLOBAL.AG**.

I have read and fully understand the foregoing document and prior to engaging in any activities that could violate any of **GLOBAL.AG's** policies or the laws of any state, nation or jurisdiction where I conduct business on behalf of **GLOBAL.AG** in any manner or respect, I will review the foregoing document and act in strict compliance. If I have any questions concerning any matter within the scope of **GLOBAL.AG** policies or the laws of any state, nation or jurisdiction, I will present them to the **GLOBAL.AG's** General Counsel, (email: ngo@globalag.de), for review, prior to engaging in any such transaction or activity.

ACKNOWLEDGED AND AGREED:

Signature

Name and Title

Date